110-229

OFFICE SUPREME COURT U. S.
FILED
JAN 7 1884
JAMES H. McKENNEY, Clerk.

Supreme Court of the United States,

OCTOBER TERM, A. D. 1883.

No. 191.

THE LAKE SHORE AND MICHIGAN SOUTHERN RAILWAY COMPANY, *Appellant*,

vs.

THE NATIONAL CAR-BRAKE SHOE COMPANY, *Appellee.*

APPEAL FROM THE UNITED STATES CIRCUIT COURT, NORTHERN DISTRICT OF ILLINOIS.

ADDITIONAL BRIEF AND ARGUMENT FOR APPELLEE.

May it please the Court:

It is claimed by appellant that the specification of patent No. 40,156, sued on, does not describe the combination secured in the second claim, except in connection with the "lateral rocking" movement mentioned in the first claim.

In order to demonstrate the fact that the improvement secured by the second claim is fully described in the specification, we have concluded to separate the description of this improvement from the description of the improvement secured by the first claim, and present each in the form of a specification.

As it stands, the specification of the patent sued on con-

sists of three parts: First, that portion which is common to *both* the improvements; second, that portion which is common to both the improvements and special to the *first* improvement; and, third, that portion which is common to both the improvements and special to the *second* improvement.

Taking that portion of the specification which is common to *both* the improvements and adding to it that which is special to the *first* improvement, we have the following specification:

To all whom it may concern:

Be it known that I, James Bing, of Philadelphia, Pennsylvania, have invented an improvement in shoes for car-brakes, and I do hereby declare the following to be a full, clear, and exact description of the same, reference being had to the accompanying drawing and to the letters of reference marked thereon.

My invention relates to the construction of shoes or rubbers for car-wheels, and consists—

Firstly. In constructing the shoe of two parts, in the peculiar manner described hereafter, so that the part in contact with the wheel can accommodate itself to the same.

In order to enable others skilled in this class of mechanism to make and apply my invention, I will now proceed to describe its construction and operation.

On reference to the accompanying drawing, which forms a part of this specification, Figure 1 is a vertical section of my improved shoe for railway-car brakes; Fig. 2, a sectional plan on the line 1, 2, Fig. 1; and Fig. 3, a front view of the shoe. Similar letters refer to similar parts throughout the several views.

A is the shoe, and B the sole, the latter being formed to fit the periphery of the car-wheel, (part of which is shown

by the line x,) and having a lug, a, which fits between the lugs b b', on the shoe.

It will be observed, on reference to Fig. 2, that the lug a is made tapering, and that the bolt G fits loosely in the said lug, as well as in the lugs b b', so that the sole is self-adjustable laterally, for a purpose described hereafter.

A projection, d, on the sole B fits into a socket in the shoe in such a manner that the sole can vibrate laterally in the said socket, while the projection serves to maintain the shoe and sole in their proper relative positions.

H is the usual brake-beam, one end of which fits into a recess in, and is secured to, the shoe A, the other end of the beam being secured to a similar shoe on the opposite side of the car-truck.

The peripheries of car-wheels are always beveled or inclined, so that it becomes necessary to make the soles of the ordinary shoes or rubbers of a corresponding bevel, one shoe at one end of the beam being beveled in one direction, and the other shoe at the opposite end of the beam being beveled in a contrary direction.

Even when the usual shoes are properly fitted to the beveled peripheries of the wheels, the lateral movement of the axles as the wheels traverse curves of the track is such that the ordinary shoes cannot fit accurately at all times. Another evil attending the use of ordinary shoes or rubbers is that, as the lateral movement of the axles takes place, an undue strain is imparted to the brake-beam.

These difficulties are avoided by my invention, inasmuch as the sole B is permitted to have a lateral rocking motion on the shoe, and can at once accommodate itself to the bevel of the wheel, or to any variation caused in that bevel by the lateral movement of the axle.

I claim as my invention, any desire to secure by letters-patent:

Firstly. The shoe A and sole B, both being constructed and adapted to each other, substantially as described, so that

the sole can have a lateral rocking movement on the shoe, for the purpose specified.

In testimony whereof, I have hereunto signed my name to this specification in the presence of two subscribing witnesses.

JAMES BING.

Witnesses:
HENRY HOWSON,
JOHN WHITE.

Taking, now, that portion of the specification which is common to *both* the improvements and adding to it that which is special to the *second* improvement, we have the following specification:

To all whom it may concern:

Be it known that I, James Bing, of Philadelphia, Pennsylvania, have invented an improvement in shoes for car-brakes, and I do hereby declare the following to be a full, clear, and exact description of the same, reference being had to the accompanying drawing and to the letters of reference marked thereon.

My invention relates to the construction of shoes or rubbers for car-wheels, and consists—

Secondly. In the peculiar combination, described hereafter, of the two parts of the shoe, the clevis by which the shoe is suspended to the truck, and the bolt which secures the clevis to the shoe and the two parts of the shoe to each other.

In order to enable others skilled in this class of mechanism to make and apply my invention, I will now proceed to describe its construction and operation.

On reference to the accompanying drawing, which forms a part of this specification, Figure 1 is a vertical section of my improved shoe for railway-car brakes; Fig. 2, a sectional plan on the line 1, 2, Fig. 1; and Fig. 3, a front view of the shoe. Similar letters refer to similar parts throughout the several views.

D is a clevis, the upper end of which is suspended to the truck of the railway-car, the lower end being arranged to embrace the lugs *b* and *b'* of the shoe, a bolt, G, passing through the lower end of the clevis, through the lugs *b* and *b'* of the shoe, and through the lug *a* of the sole B.

H is the usual brake-beam, one end of which fits into a recess in, and is secured to, the shoe A, the other end of the beam being secured to a similar shoe on the opposite side of the car-truck.

Another ~~The~~ improvement in my invention is the peculiarly simple arrangement of the clevis which supports the shoe, the bolt G serving the purpose of connecting the clevis to the shoe, and the latter to the sole.

I claim as my invention and desire to secure by letters patent:

Secondly. The combination of shoe *a* sole B, clevis D, and bolt G, the whole being constructed and arranged substantially as specified.

In testimony whereof, I have signed my name to this specification in the presence of two subscribing witnesses.

JAMES BING.

Witnesses:

HENRY HOWSON,

JOHN WHITE.

If, now, we read each of these specifications with reference to the drawings, we shall find that each of the improvements summed up in the two claims of the Bing patent are fully described. In the one case we have a specification fully describing the "rocking motion," in the other a specification fully describing the "peculiar combination," without a reference to the rocking movement. Of course, when the two improvements were described in the same specification, it would have been useless to have *twice* described those things which are *common* to both, and so but one description of such matters was made. We have simply divided them to show the court, in the clearest possible manner, that there is no ground for the argument that the improvement

claimed in the second claim is not described except in connection with the rocking motion secured by the first claim, and to show the court that it is described in full, clear, and exact terms, without a single reference to any rocking motion.

If the combination of parts mentioned in the second claim is so described as to support that claim if it had been taken out in a separate, independent patent, we submit that the description should not be less effective because another improvement is described and claimed alongside of it.

Respectfully submitted,

EPHRAIM BANNING.

THOMAS A. BANNING,
Counsel for Appellee.